THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, the 30th day of March,2007

W.P.No.20006 of 1999

Between:-

T. Satyavathi & another … Petitioners

and

A.P. Power Transmission Corporation,
rep. by its Managing Director, Vidyut
Soudha, Hyderabad and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.20006 of 1999

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the Memo Nos.SE/O/ELR/ADM/U1/F.Persl/D.No.1666 and 1667 of 1999, dated 18-9-1999 of the 2nd respondent purporting to cancel the appointment of the petitioners to the category of Record Assistant and consequently, to direct the respondents to continue the petitioners as Record Assistants with all consequential benefits.

It appears, both the petitioners were initially appointed as Sweeper-cum-Watchwoman-cum-Gardener in the Last Grade Services of the erstwhile A.P. State Electricity Board in the year 1989 (3-5-1989) on compassionate grounds, since their husbands died in harness while serving in the Board. During the year 1991, both of them passed SSC. Therefore, they applied for appointment by transfer as Attender/Record Assistant since they had acquired necessary qualification and put in requisite qualifying service. Though initially, their application was rejected on the ground that they have not put in 6 years of qualifying service, they were appointed by transfer as Record Assistants vide Proceedings dated 16-2-1996 of the 2nd respondent, since by that time, they had completed 6 years of service in the lower post. Further, on completion of probation period of two years, their services were confirmed in the category of Record Assistant with effect from 17-8-1998 and they have been working as Record Assistants since then. While the matter stood thus, the 2nd respondent seems to have issued a notice

dated 9-8-1999 proposing to cancel their appointment to the category of Record Assistant on the ground that their appointments were irregular by the mode of appointment by transfer. They were asked to explain as to why the appointment to the category of Record Assistant shall not be cancelled. At that stage, they filed Writ Petition No.17325 of 1999 before this Court. While admitting the Writ Petition on 17-8-1999, this Court permitted the petitioners to submit explanation to the notice dated 9-8-1999 and directed the respondents not to pass final orders, until further orders. The Writ Petition was finally disposed of on 1-9-1999 directing the respondents to pass appropriate orders on the explanation submitted by the petitioners. Petitioners submitted their explanation contending that the 2nd respondent has no jurisdiction to cancel the appointments and the Regulations do not prohibit appointment by transfer of Sweepers to the category of Record Assistant. The post of Record Assistant can be filled up on recruitment by transfer. The Regulations have not provided as to which are the feeder categories for recruitment by transfer to the category of Record Assistant. However, the 2nd respondent passed the impugned Order dated 18-9-1999 rejecting the explanation and cancelling their appointment to the category of Record Assistant. In view of the rejection, they were sought to be reverted and relieved on 21-9-1999 and 20-9-1999 respectively.

It is the contention of the petitioners that the 2nd respondent has recorded a finding in the light of the Regulations that there is no such provision to make appointment from O&M establishment to general service, which is not supported by any of the Service Regulations. Thus, the impugned Orders are arbitrary, illegal and liable to be set aside.

A detailed counter affidavit has been filed by the respondents reiterating the same stand as was taken in the show cause notice. Except referring to the provisions of recruitment by transfer, which reads

as under:

> "Must have passed X class or possess an equivalent qualification and have put in a service of not less than six years in the category from which recruitment by transfer is to be made, provided that Jamedars, Dafedars and Attenders in the A.P. Last Grade Service, who are in service must have passed 7th Class or any first public examination and put in a service of six years in any of those categories"

nothing is stated.

Heard both sides.

It appears, the understanding of the respondents, in view of the said provision for appointment by transfer, is that the petitioners do not fit into the teeth of the above provision, since they are all Sweepers and not Attenders, who are in A.P. Last Grade Service. Though a detailed counter is filed, it does not reflect that the petitioners are not entitled for promotion as per the Regulations. From the facts narrated above, it is clear that by 16-2-1996 the petitioners have completed 6 years of service in the cadre of Sweeper and, therefore, they are entitled for appointment to the post of Record Assistant by transfer. Further, there was no prohibition that a Sweeper, who is also a last grade employee, is not entitled for being considered for appointment by transfer from the post of Sweeper to that of Record Assistant.

The Writ Petition was admitted on 27-9-1999 and thereafter on 8-11-1999, this Court granted interim stay of the reversion of the petitioners. The same was made absolute on 20-12-1999. Thus, the petitioners are continuing in the post of Record Assistant till date. Learned counsel for the petitioners, however, stated that the service Regulations as to educational qualifications etc., for the purpose of appointment by transfer from the category of Watchman to Record Assistant have been amended. The educational qualification prescribed is a pass in SSC and the qualifying service to be rendered in the lower

post is three (3) years for the purpose of promotion to the post of Record Assistant. The Management also included the category of Watchman as a feeder post for the purpose of promotion to the post of Record Assistant. Petitioners have asserted in the writ affidavit that they have been appointed initially as Sweeper-cum-Watchwoman-cum-Gardener. This fact is not denied in the counter filed by the respondents. Therefore, there cannot be any doubt that the petitioners were appointed to the Last Grade Service and as such, they are entitled for promotion to the post of Record Assistant, subject to fulfilling the other service conditions. Petitioners were, in fact, satisfied all the conditions for promotion to the post of Record Assistant. Hence, the impugned Orders dated 18-9-1999 passed by the 2nd respondent are arbitrary and illegal and as such, they are liable to be set aside.

Accordingly, the Writ Petition is allowed and the impugned Orders are set aside. The respondents are directed to continue the petitioners as Record Assistants with all consequential benefits. No order as to costs.

30-3-2007

prk